

## INSPECTION REPORT COVER SHEET

Inspection #: <u>07241250901</u>	Name of Person Contacted: <u>GARY TREICHLER</u>
Name of Business: <u>HA TREICHLER &amp; SONS</u>	Official Position: <u>VICE PRESIDENT</u>
Street Address: <u>2687 SAUNDERS SETTLEMENT RD.</u>	Post Office Address: <u>N/A</u>
City/State/Zip Code: <u>SANBORN, NY 14132</u>	City/Village/Township: <u>LEWISTON</u>
Telephone Number: <u>716-731-9390</u>	County: <u>NIAGARA</u>

Inspector's Initials	Name of Inspection Form	Form Number
<u>MRO</u>	Notice of Inspection	<u>NOI</u>
<u>MRO</u>	Pesticide Applicator/Business/Use Inspections	<u>USE</u>
<u>MRO</u>	Worker Protection Standard Inspection	<u>WPS</u>
	Worker Protection Standard Inspection Of Family Establishment	FEI
	Liquid Termiticide Use Checklist	TER
	Ornamental and Turf Checklist	T&O
	Voluntary Statement	VOL
	Receipt for Samples	SAM
<u>MRO</u>	Market Place/Restricted Dealers Records Inspection	<u>MKT</u>
	Market Place/Restricted Dealer Records Inspection Continuation Sheet	MPC
	Quarantine Order	QRN
	Quarantine Order Release	QOR
	Recertification/Certification Course Monitoring	RCM
	Experimental Use Permit Checklist	EUP
	Authorization for Medical Record Disclosure	MED

Inspector's Signature: Gary R. Davis Number: 509 Date: 7/24/12

Inspection Acknowledgment: I acknowledge receiving a copy of the above listed inspection documents initialed by the inspector.

Signature: Gary Treichler Date: 7/24/12

Print Name: Gary Treichler

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~~NOTICE OF INSPECTION~~

~~USE/MISUSE INSPECTION~~

INSPECTION #	07241250901	DATE	7/27/12	TIME	10:30 AM	REGION	9
NAME OF INDIVIDUAL							
GARY TREICHLER							
NAME OF FIRM (Note if corporation, partnership, dba, etc)							
FR H.A. TREICHLER & SONS, INC							
ADDRESS This is the address of the:							
INSPECTION SITE <input checked="" type="checkbox"/> FIRM <input checked="" type="checkbox"/> INDIVIDUAL							
2687 Saunders Settlement Road							
CITY / VILLAGE						STATE	ZIP
SANBORN						NY	14132
TOWNSHIP				COUNTY		PHONE	
LEWISTON				NIAGARA		716-731-9390	

REASON FOR INSPECTION

- ☒ For the purpose of inspecting and obtaining samples of any pesticides or devices packaged, labeled and released for shipment, samples of any containers or labeling for such pesticides or devices in places where pesticides or devices are produced, or held for distribution or sale.
- ☒ For the purpose of inspecting and obtaining samples of mandated records.
- ☒ For the purpose of inspecting the use of pesticides and sampling pesticides in use to determine if they are being used in compliance with appropriate laws and rules and regulations.
- ☒ For the purpose of inspecting sites where pesticides are being used to collect data on the use of pesticides and to determine whether pesticides are being used in compliance with appropriate laws and rules and regulations.
- ☐ Other

VIOLATION SUSPECTED

CONSENT USE/MISUSE

Voluntary Consent Necessary to Enter for Inspection and/or Sampling.

- ☐ The undersigned hereby voluntarily consents to an inspection of \_\_\_\_\_ of which I am the owner, Agent, or Person-in-Charge, for the purposes of gathering information and/or samples in connection with the administration and enforcement of Article 33 and Section 15-0313 of the Environmental Conservation law relating to pesticides. I understand that I have the right to refuse consent to this entry.

SIGNATURE	TITLE	DATE
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This inspection is being performed under authority granted by Article 33 and Section 15-0313 of Article 15 of the Environmental Conservation law relating to pesticides and the Federal Insecticide, Fungicide and Rodenticide Act as amended (7 U.S.C. 136 et seq.).

INSPECTOR INFORMATION

NAME	TITLE	ID NUMBER	PHONE NUMBER
Gregory R. Davis	PC51	609	716-851-7220
SIGNATURE	OFFICE LOCATION	ACCOMPANIED BY	
Gregory R. Davis	10 MICHIGAN BLVD BUFFALO	MICHAEL NIERENBERG	



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# PESTICIDE APPLICATOR/BUSINESS/USE INSPECTIONS

INSPECTION NUMBER <b>0724/250901</b>		FIRM/FACILITY/PERSON INTERVIEWED <b>HATREIKALEX + SONS INC / GARY TREICHLER</b>		EQUIPMENT TYPE/SIZE <b>PROPORTIONER</b>	
TYPE OF INSPECTION: <input type="checkbox"/> Business/Agency <input checked="" type="checkbox"/> Applicator <input type="checkbox"/> Non-agricultural use <input checked="" type="checkbox"/> Agricultural use		SITE OF INSPECTION <b>2687 SANDOZ SETTLEMENT RD., SCOTSDALE, NY</b>			
BUSINESS REG. NO./EXPIRATION DATE		INSURANCE COMPANY/EXPIRATION DATE			
APPLICATOR NAME/CERTIFICATION TYPE <b>TERAY TREICHLER</b>		CERTIFICATION ID <b>P9847769</b>	CATEGORY/EXPIRATION <b>24/2/21/2013</b>	SUPERVISED BY <b>P/B</b>	
DATE/TIME/WEATHER CONDITIONS DURING APPLICATION <b>6/28/12 Cloudy 72°</b>		CROP <b>Hardy Mums</b>	SITE/SIZE <b>645x15, 18x19</b>	TARGET PESTS <b>PYTHIUM</b>	
PESTICIDE NAME/EPA REG. NO. <b>SUBDUE MAXX #100-796</b>		METHOD OF APPLICATION <b>Proportional</b>	CLASSIFICATION <b>Gen Use</b>	FORMULATION <b>119410</b>	OBSERVED RATE <b>1/2/100</b>
LABEL/EQUIPMENT REQUIREMENTS		REFERENCE SECTION	Yes	No	NA
Label Rate Followed	325.2(b)	<input checked="" type="checkbox"/>			
Target Pests on Label	325.2(b)	<input checked="" type="checkbox"/>			
PPE/Cautionary Labeling Followed	325.2(b)	<input checked="" type="checkbox"/>			
Preharvest Interval/REI per Label	325.2(b)	<input checked="" type="checkbox"/>			
Crop/Area Treated per Label	325.2(b)	<input checked="" type="checkbox"/>			
Pesticide Containers Properly Labeled	33.1301(1)(b)	<input checked="" type="checkbox"/>			
Service Containers Properly Labeled	33.1301(1)(b)	<input checked="" type="checkbox"/>			
Containers Properly Rinsed and Disposed	325.4(a)	<input checked="" type="checkbox"/>			
Backflow Prevention/Air Gap Present	325.2(c)	<input checked="" type="checkbox"/>			
Proper Stickers on Equipment/Vehicles	325.26	<input checked="" type="checkbox"/>			
Equipment Properly Calibrated		<input checked="" type="checkbox"/>			
Storage Locked/Containers Secure		<input checked="" type="checkbox"/>			
Warning Signs Posted		<input checked="" type="checkbox"/>			
Location of Container Disposal:	<b>DUMPFSTER</b>				
Location of Pesticide Storage:	<b>WORK AREA</b>				
Water Source:	<b>MUNICIPAL</b>				
Pesticide Mixing Area:	<b>WORK AREA</b>				
REMARKS:					
INSPECTOR'S SIGNATURE		DATE AND TIME INSPECTED			
<b>Dwight R. O'Neil</b>		<b>7/24/12 10:30 AM</b>			

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# WORKER PROTECTION STANDARD INSPECTION

Inspection # <u>072412GD901</u>	Date: <u>07-24-12</u>	Inspection: <input checked="" type="checkbox"/> Unannounced <input type="checkbox"/> Appointment
Firm/Farm Name <u>H.A. Treichler &amp; Sons</u>	Inspection Type: Tier I <input type="checkbox"/> or Tier II <input checked="" type="checkbox"/>	
Type of Establishment: (check all applicable): <input checked="" type="checkbox"/> Farm <input checked="" type="checkbox"/> Greenhouse <input checked="" type="checkbox"/> Nursery <input type="checkbox"/> Family establishment <input type="checkbox"/> Research <input type="checkbox"/> Forest		
Approx. total area of establishment: <u>225 acres</u>	Principal crops: <u>bedding plants</u>	
# of certified applicators with establishment: <u>1</u>	Name of person(s) directing/controlling pesticide use: <u>Terry Treichler</u>	
Who applies pesticides? (check all applicable): <input checked="" type="checkbox"/> Owner <input type="checkbox"/> Employee <input type="checkbox"/> Custom Applicator		
Note: For data in this block, estimates provided by the establishment are sufficient.		
# present at this inspection:	workers <u>10</u>	handlers <u>0</u>
1. # present during last pesticide application:	workers <u>10</u>	handlers <u>1</u>
2. or for the last 30 days: (circle one)	workers <u>9</u>	handlers <u>0</u>

## INFORMATION AT A CENTRAL LOCATION

40 CFR 170.122/135

How to Comply Manual  
Page #

- NA Y N Is the approved SAFETY POSTER displayed? 23
- NA Y N Is EMERGENCY MEDICAL INFORMATION displayed? (name, address & telephone number) 24
- NA Y N Is the site LOCATED where it can be readily seen and read by workers & handlers? 24
- NA Y N Are workers & handlers INFORMED of the location and are they allowed ACCESS to the site? 24
- NA Y N Does the information remain LEGIBLE while posted? 24
- NA Y N Is the following APPLICATION INFORMATION displayed? -Location and Description of the treated area; - Product 23
- NA Y N Name; -EPA REG #; - Active Ingredient(s) of the pesticide; -Time & Date of application; - REI (restricted entry interval)

Comments (explain NA): \_\_\_\_\_

## PESTICIDE EXPOSURE INCIDENTS/EMERGENCY ASSISTANCE

40 CFR 170.160

- How are incidents reported for employees who become sick/injured by pesticides? never happened.
- NA Y N Is prompt transportation to emergency medical facility available for employees who become sick/injured by pesticides? 36
- NA Y N Is information provided to medical personnel regarding the pesticide to which employees may have been exposed? 36
- Who is the person responsible for providing transportation and pesticide information? Gary or Terry Treichler
- Y N Have there been any pesticide exposure incidents on this farm? If yes, give details: \_\_\_\_\_

Comments (explain NA): \_\_\_\_\_

## EMPLOYER/CUSTOM APPLICATOR INFORMATION EXCHANGE ☒ NA (no custom applications) 40 CFR 170.124 & 170.224

- NA Y N Does the ag establishment notify the custom applicator regarding the location of treated areas and REIs? 34
- NA Y N Does custom applicator notify the ag establishment of required application information before the application? 33

How is the information exchanged? When/with whom? \_\_\_\_\_



Inspection # 0724176D901

**PESTICIDE SAFETY TRAINING ASSURANCE**

**40 CFR 170.130**

How to Comply Manual

Page #

**WORKERS:** (Applies to workers who are NOT certified applicators or trained handlers)

- ☒ NA ☒ Y ☐ N Does Ag Employer ASSURE that workers have been trained within the last five years? 25
- ☒ NA ☒ Y ☐ N Does Ag Employer ASSURE that workers have been trained before EARLY ENTRY activities during an REI? 25
- ☒ NA ☒ Y ☐ N Is the Ag Employer able to VERIFY that the required PESTICIDE SAFETY INFORMATION was provided to workers before entry into any area on an ag establishment where WPS pesticides have been applied within the last 30 days? 26
- ☒ NA ☒ Y ☐ N Does Ag Employer ASSURE that workers have received the required ADDITIONAL TRAINING before the sixth day of entry into any area on an ag establishment where WPS pesticides have been applied within the last 30 days?

**HANDLERS:** (Applies to handlers who are NOT certified applicators or certified crop advisers) **40 CFR 170.230**

- ☒ NA ☒ Y ☐ N Does Ag Employer ASSURE that handlers have been trained within the last five years? 25/26
- ☒ NA ☒ Y ☐ N Does Ag Employer ASSURE that handlers have been trained before performing any handling task? 25/26

How is training verified for both workers and handlers? no verification

Comments (explain NA): provided Mr. Treichler with training roster

**PESTICIDE SAFETY TRAINING PROGRAM**

NA (if workers trained elsewhere)

**40 CFR 170.130/230**

- ☒ NA ☒ Y ☐ N **WORKERS & HANDLERS:** Is the information presented in a manner that the workers & handlers can understand (such as through a translator & using nontechnical terms & presenter answers questions)? 27
- ☒ NA ☒ Y ☐ N **WORKERS:** Does the PESTICIDE SAFETY INFORMATION meet the criteria listed in 170.130(c)? 26
- ☒ NA ☒ Y ☐ N **WORKERS:** Does the content of the ADDITIONAL TRAINING materials meet the criteria listed in 170.130(d)(4)? 103
- ☒ NA ☒ Y ☐ N Is trainer qualified to train **WORKERS**? (certified applicator or authorized by DEC) 26
- ☒ NA ☒ Y ☐ N **HANDLERS:** Does the content of the training materials meet the criteria listed in 170.230(c)(4)? 104
- ☒ NA ☒ Y ☐ N Is the trainer qualified to train **HANDLERS**? (certified applicator or authorized by DEC) 26

Who trains workers/handlers? not presently done When/how often? \_\_\_\_\_

Comments (explain NA): \_\_\_\_\_

**DECONTAMINATION SITES**

The employer must adhere to the following decontamination requirements for **WORKERS and HANDLERS:** **40 CFR 170.112/150/250**

- ☒ NA ☒ Y ☐ N Do decontamination sites have soap, single-use towels, and enough water for washing & emergency eye flushing? 29-31
- ☒ NA ☒ Y ☐ N Is the decontamination water of a quality & temperature as required? 29
- ☒ NA ☒ Y ☐ N Is one pint of eye flush water immediately available to **handlers** using pesticides requiring protective eye wear and to **early entry workers** when working in areas treated with pesticides requiring protective eye wear for early entry? 31/68
- ☒ NA ☒ Y ☐ N Is the decontamination site within 1/4 mile of the work site and out of areas being treated or under REI? 30/31
- ☒ NA ☒ Y ☐ N Are decontamination sites provided for **workers** entering treated areas until 30 days following expiration of the REI? 29
- ☒ NA ☒ Y ☐ N (Exception: Pesticides with a four-hour REI require decontamination site for only seven days.)
- ☒ NA ☒ Y ☐ N Are decontamination sites provided for **early entry workers** during and after early entry? 67/68

The employer must adhere to the following decontamination requirements for **HANDLERS:**

**40 CFR 170.250**

- ☒ NA ☒ Y ☐ N Is enough water provided to **handlers** for washing the entire body in case of an emergency? 30
- ☒ NA ☒ Y ☐ N Is one clean change of clothing provided to **handlers** for use in an emergency? 30
- ☒ NA ☒ Y ☐ N Are decontamination supplies located at the mix/load site? 30/31
- ☒ NA ☒ Y ☐ N Are decontamination supplies for **PILOTS** kept in the airplane or at the aircraft loading site? 30
- ☒ NA ☒ Y ☐ N Are handler decontamination supplies kept out of treated areas unless they are in enclosed containers? 31
- ☒ NA ☒ Y ☐ N Are decontamination supplies located where handlers remove PPE for washing thoroughly after handling activities? 31

Comments (explain NA): \_\_\_\_\_

**ADDITIONAL DUTIES FOR WORKER EMPLOYERS**

40 CFR 170.110

How to Comply Manual  
Page #**RESTRICTIONS DURING APPLICATIONS**

- ☒ NA ☒ Y ☐ N Are workers prohibited in treated areas during application and until REIs have expired? 45
- ☒ NA ☒ Y ☐ N Are workers prohibited in treated areas plus the additional buffer area during application in NURSERIES? 51/52
- ☒ NA ☒ Y ☐ N Are workers prohibited in a GREENHOUSE during application and until ventilation criteria are met? 53-55

*all products have 0-4 hrs. REI Maximum***NOTICE OF APPLICATIONS TO WORKERS**

40 CFR 170.120

- ☒ NA ☒ Y ☒ N Are all GREENHOUSE applications posted with WPS warning signs? 42
- ☒ NA ☒ Y ☒ N Are workers given BOTH oral and posted notification when required by the pesticide label? 41-44
- ☒ NA ☒ Y ☒ N Are workers given notification of applications (EITHER orally or posted) for other applications? 41-44
- ☒ NA ☒ Y ☐ N Are workers told which method will be routinely used at this firm (oral or posted notification)? - circle one 41

Who notifies workers? *Applications are done on Saturday evening, when workers are gone - REI 4 hours.*

- ☒ NA ☒ Y ☒ N Have any early entry activities occurred?
- ☒ NA ☒ Y ☐ N Were workers informed of label restrictions re: early entry?

**Posted Warning Signs**☒ NA for all

- ☒ NA ☒ Y ☒ N Does the employer use the approved WPS warning signs for posted notification? 42/43
- ☒ NA ☒ Y ☒ N Are the signs posted at all entrances of worker entry to the treated area? 42
- ☒ NA ☒ Y ☒ N Are the signs put up no sooner than 24 hours prior to application? 43
- ☒ NA ☒ Y ☒ N Are the signs removed within three days after the end of the REI? 43
- ☒ NA ☒ Y ☒ N Are the signs posted along the border of any labor camp adjacent to the treated area? 42

**Oral Warnings**☒ NA for all

- ☒ NA ☒ Y ☒ N Are oral warnings given in a language (s) understood by workers? 44
- ☒ NA ☒ Y ☒ N Do oral warnings include: 1) location & description of treated area; 2) REI; 3) instructions not to enter during the REI? 44

Comments (explain NA): \_\_\_\_\_

**ADDITIONAL DUTIES FOR HANDLER EMPLOYERS****APPLICATION RESTRICTIONS & MONITORING**☒ NA if no handlers employed

40 CFR 170.210

- ☒ NA ☒ Y ☒ N \*Do both the employer & the handler assure that no pesticide is applied (either directly or through drift) so as to contact anyone other than trained and PPE-equipped handlers: 73
- How is this verified? *applications on weekend when workers leave.*
- ☒ NA ☒ Y ☒ N Are handlers monitored visually or by voice every two hours when handling SKULL & CROSSBONES pesticides? 73
- ☒ NA ☒ Y ☒ N Does the handler have a continuous visual or voice contact with another trained and PPE-equipped handler when handling a FUMIGANT in a GREENHOUSE? 73/74

**SPECIFIC INSTRUCTIONS FOR HANDLERS**☒ NA if no handlers employed

40 CFR 170.232

- ☒ NA ☒ Y ☒ N Does the employer assure that handlers read the label or are informed (in a manner they can understand) about the label requirements for safe use before performing any handling activity? 75
- ☒ NA ☒ Y ☒ N Does the handler have access to the product labeling during handling activities? 75

**SAFE OPERATION OF EQUIPMENT**☒ NA if no handlers employed

40 CFR 170.234

- ☒ NA ☒ Y ☒ N Is the handler instructed in the safe operation of handling equipment before it is used? By whom? 75
- ☒ NA ☒ Y ☒ N Is handling equipment inspected and repaired before each day of use? 77
- ☒ NA ☒ Y ☒ N Does the employer assure that only trained and PPE-equipped handlers repair, clean or adjust any handling equipment that contains pesticides or pesticide residues? 77

Comments (explain NA): \_\_\_\_\_

**PERSONAL PROTECTIVE EQUIPMENT REQUIREMENTS FOR HANDLERS/EARLY ENTRY WORKERS****40 CFR 170.112/240**

- ☒ NA ☐ Y ☐ N Does the employer provide the handler/early entry workers with the appropriate PPE in clean and operating condition? 79
- ☐ NA ☒ Y ☐ N Does the employer assure that instruction on use and cleaning of PPE is given and that it is worn and used correctly? 79
- Who gives instructions and assures use of PPE? Terry Treichler
- ☐ NA ☒ Y ☐ N Does the employer assure that PPE is inspected, cleaned, stored properly & repaired or replaced before each day of use? 79
- ☐ NA ☒ Y ☐ N Does the employer assure that filters are replaced on respirators when required? 80
- ☒ NA ☐ Y ☐ N Do handlers/early entry workers have a clean place to store personal clothing, put on PPE and remove PPE after use? 79
- Where is it located? \_\_\_\_\_
- ☐ NA ☒ Y ☐ N Is contaminated PPE disposed of properly? 79
- ☐ NA ☒ Y ☐ N Does the employer take appropriate measures to prevent heat-related illness for handlers/early entry workers using PPE? 79
- ☐ NA ☐ Y ☒ N Have handlers refused to wear proper PPE?

From labels of agricultural pesticides documented in an accompanying AUO inspection, list the following (for up to 4 products):

	Product Name	REI	PPE
1	Subdue Maxx	4 hrs	Long sleeved shirt, long pants, s+s, waterproof gloves
2			
3			
4			

If the label for any of the above products does not include agricultural use requirements - state so above.

Comments (explain NA):

**WORKER AND HANDLER INTERVIEWS**

- ☒ Y ☐ N Were any workers or handlers interviewed? (circle which were) If no for either, explain why an interview was not conducted.

**FAMILY ESTABLISHMENTS****40 CFR 170.104/110/112/124/224/240**

- ☒ NA ☐ Y ☐ N Are employees only spouse, children, stepchildren, foster children, parents, stepparents, foster parents, brothers, sisters? 91
- If NO, skip this section.
- ☐ NA ☐ Y ☐ N Are non-handlers prohibited in treated areas during application and until REIs have expired? 92
- ☐ NA ☐ Y ☐ N Are non-handlers prohibited in treated areas plus the additional buffer area during application in NURSERIES? 92
- ☐ NA ☐ Y ☐ N Are non-handlers prohibited in a GREENHOUSE during application and until ventilation criteria are met? 92
- ☐ NA ☐ Y ☐ N Are early entry workers prohibited in treated areas during the first four hours after application? 93
- ☐ NA ☐ Y ☐ N Are early entry workers limited to one hour of work in a 24-hour period in treated areas during the REI? 93
- ☐ NA ☐ Y ☐ N Are early entry workers who perform irrigation and limited contact activities limited to eight hours of work in a 24-hour period? 93
- ☐ NA ☐ Y ☐ N Is the correct PPE for early entry PROVIDED for early entry activities at this firm? 93
- ☐ NA ☐ Y ☐ N Does the handler at this firm wear the label-specified PPE during handling tasks? 92
- ☐ NA ☐ Y ☐ N Is the label-specified PPE for handling activities at this firm PROVIDED in clean and operating condition? 92
- ☐ NA ☐ Y ☐ N Does this establishment notify commercial handlers regarding location of treated areas and REIs on the establishment? 92
- ☐ NA ☐ Y ☐ N Do commercial handlers notify this establishment of required application information before application takes place? 92

Comments (explain NA):

Additional Comments:

Print name of inspector <u>Greg Davis</u>	Print name of person interviewed <u>Gary Treichler</u>
Signature of inspector <u>[Signature]</u>	Signature of person interviewed <u>[Signature]</u>



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## MARKET PLACE / RESTRICTED DEALER RECORDS INSPECTION

INSPECTION NUMBER <b>07241260401</b>		FIRM <b>HATREICHLER + SONS, INC</b>			
CHECK INSPECTION(S) COMPLETED: <input checked="" type="checkbox"/> MARKETPLACE		<input type="checkbox"/> RESTRICTED DEALER RECORDS			
*COMMERCIAL PERMIT NO.		*EXPIRATION DATE:			
*CERTIFIED APPLICATOR NAME <b>[Signature]</b>	*CERTIFICATION NUMBER	*EXPIRATION DATE	*CATEGORIES		
LIST PESTICIDES BELOW IN ORDER TO - CHECK REGISTRATION STATUS, REVIEW LABEL REQUIREMENTS, AND/OR CHECK RESTRICTED SALES RECORDS:					
PESTICIDE NAME	EPA REG. NUMBER	LABELER	ADDRESS	R	
1)					
2)					
3)					
4)					
5)					
6)					
7)					
STORAGE, LABELING & RECORDS	SECTION	YES	NO	NA	REMARKS
Packaging in good condition/original containers	33-1301(1)(b)	<input checked="" type="checkbox"/>			
All pesticides stored and/or displayed away from food and feed	325.2(b)	<input checked="" type="checkbox"/>			
*Restricted Pesticides stored in a secure manner	326.11			<input checked="" type="checkbox"/>	
All pesticides properly labeled and legible	33-1301(1)(e)	<input checked="" type="checkbox"/>			
Section 18 / 24(c) labeling and/or supplemental labeling provided	33-1301(1)(e)			<input checked="" type="checkbox"/>	
*Required records and reporting for all Restricted Use Pesticide transactions	33-0901(5); 33-1205(2); 33-1207; 326.10(3)			<input checked="" type="checkbox"/>	
*Required records kept for at least 2 years	326.3(f)			<input checked="" type="checkbox"/>	
Sign displayed in accordance with the Neighbor Notification Law	33-1004.1(e)			<input checked="" type="checkbox"/>	
Quarantine Order issued as a result of this inspection			<input checked="" type="checkbox"/>		See Quarantine Order form for pesticides in non-compliance
Inventory check made on previous Quarantine Order and/or Release issued			<input checked="" type="checkbox"/>		Previous Inspection No.:
ADDITIONAL REMARKS					
INSPECTOR'S SIGNATURE <b>[Signature]</b>		DATE <b>7/24/12</b>		R = Restricted Use Pesticide * Required field for RDR	



**NYS Dept of Environmental Conservation URPCEP CHECKLIST** *To be used with NAUO, CAR, and RDR inspections*

Inspect Type	Question/Action	Y	N	N/A	Remarks
ALL*	1. Opening conference.	✓			
	2. Inspection of pesticide storage area:	✓			
	a Any pesticides on hand that seem inappropriate for establishment or site?		✓		
	b Are there supplies of clean household containers that could be filled with pesticides and left with customer/tenants?		✓		
	c Any pesticides in unlabeled packaging or "household" packaging?		✓		
	d Are restricted use pesticides in storage?		✓		
	e Are there security measures in place to prevent unauthorized entrance and use of pesticides?	✓			
f Have any pesticides been stolen/ pilfered from inventory - particularly RU or agricultural ones?		✓			
CAR	1. All CAR inspections- conduct review of Applicator records.	✓			
	a Structural Related: Any structural applications of seemingly inappropriate pesticides?			✓	
	b Agricultural Related: Has methyl parathion been used in the last year?		✓		
	Any discrepancies between amount of RU pesticides purchased and applied, or undocumented returns?		✓		
RDR	1. Is this establishment engaged in the retail sale of methyl parathion?			✓	
	2. Do purchasers produce a commodity on which the pesticide is used?				
	a Have all sales of RUPs been made to either:				
	A person who is certified to use it?				
	An individual under the direct supervision of a currently certified applicator authorized to use the product?				
	3. Have there been sales of methyl parathion EC in the past two years?				
	a What methyl parathion products in particular does the dealer sell? _____				
	b What crops are the products used on? _____				
	4. If this is not a methyl parathion emulsifiable concentrate dealer, have any of the other ag pesticides referenced in attachment "5A" of URPCEP Protocol been sold for the past few years?				
	a If not, have any other agricultural pesticides, particularly RU ones, been sold?				
	5. Does the dealer conduct audits of its pesticide inventory? How often? _____				
	6. Has there ever been an unexplained discrepancy between the amount of methyl parathion or other ag use pesticide in inventory and amount that inventory records indicate should be there?				
	a What was the pesticide?				
b Was the discrepancy resolved as 1) bookkeeping error? or 2) was theft suspected?					
7. Has methyl parathion or any RU agricultural pesticide been stolen from inventory? If yes, document particulars (i.e. person's name, the intended use of pesticide) and ask for a copy of any police report, report to the insurance company or other information relating to the theft.					
ALL*	3. Closing conference.	✓			

\* When only conducting an NAUO inspection, these blocks of questions/actions are the only ones that need to be covered.



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
DIVISION OF SOLID AND HAZARDOUS MATERIALS • BUREAU OF PESTICIDES MANAGEMENT  
www.dec.state.ny.us

# WORKER PROTECTION STANDARD AGRICULTURAL WORKER INTERVIEW QUESTIONNAIRE

Inspection # (if interview related to an inspection):	072412-GD901
Name of Establishment:	H.A. Treichler & Sons Inc.
Date of Interview:	07-24-12
# of Workers Interviewed:	1
Were workers accompanied by employers during interview?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Interview Conducted	<input checked="" type="checkbox"/> onsite <input type="checkbox"/> offsite

## PESTICIDE SAFETY TRAINING

1. Do you know what a pesticide/poison is? ☒ Yes ☐ No

Ask them to briefly explain: poisons

2. Were you given pesticide-related instructions before you started working on this farm? ☐ Yes ☒ No

3. Did you receive pesticide safety training? ☐ Yes ☒ No

If yes, what type of training did you receive?

☐ movie ☐ flip chart (bring a picture of a flip chart) ☐ lecture ☐ handbook

4. Was the training in your native language? ☐ Yes ☐ No

5. Was an interpreter available during the training? ☐ Yes ☐ No

6. Where did you receive the training? \_\_\_\_\_

7. When did you receive the training? ☐ During work ☐ At lunch ☐ After work?

8. Do you know who trained you? ☐ Yes ☐ No If yes, who? \_\_\_\_\_

9. When you were trained, were you taught about how to wear special clothes (PPE) such as gloves, boots, coveralls, mask) ☐ Yes ☐ No \_\_\_\_\_

10. When you were trained, were you taught about heat stress (eg. how to know when you've been in the heat for too long, how to avoid heat stress or what to do if you feel sick from it)? ☐ Yes ☒ No

11. (Show sample worker ID card) Were you given a card like this to show that you were trained?  
☐ Yes ☐ No

Do you know of any other documentation that proves you received the required training?  
☐ Yes ☐ No

12. (Show the safety poster) Where is the safety poster located? time clock

13. (Show an example of application records) Has anyone ever showed you where these records are kept?  
☐ Yes ☒ No If yes, where are they located? \_\_\_\_\_

**NOTIFICATION**

14. Do you know where the signs are posted about pesticides that have been used recently?  
☐ Yes ☐ No N/A

If yes, where? \_\_\_\_\_

Who posts the signs? signs aren't utilized

15. Are posted warning signs placed at entrances to treated areas removed when no longer applicable (within 3 days after the end of an REI)? ☐ Yes ☐ No

16. Are you told about areas that have been treated with pesticides? ☒ Yes ☐ No

How are you told? \_\_\_\_\_ Signs ☒ Oral warning \_\_\_\_\_ Both

17. Who tells you when you get oral warnings? Terry Treichler

Is it the same person that posts the signs? ☐ Yes ☐ No

When do they post them? \_\_\_\_\_

18. Are signs and oral warnings in your native language? ☒ Yes ☐ No

Inspector note how warnings are communicated to non-English speaking workers: \_\_\_\_\_

19. (Show warning REI sign.) Do you understand what this sign means? ☐ Yes ☐ No

If yes, do you pay attention to the warning signs and not enter or cross the fields? ☐ Yes ☐ No

20. Are you told when to stay out of treated areas? ☒ Yes ☐ No

21. Are the labels for the pesticides available for you to read? ☐ Yes ☒ No

A. Are the labels in a language you can understand? ☐ Yes ☐ No

B. Where is this information? unknown

C. Is this information always available to you? ☐ Yes ☒ No

**DECONTAMINATION SUPPLIES**

22. Is there ☒ water ☒ paper towels ☒ soap, available all day?

If so, where? Bathroom in greenhouse

Is this location more than 1/4 mile from the work site? ☐ Yes ☒ No (Inspector verify, if worker does not know.)

23. Is there drinking water available? ☒ Yes ☐ No

If yes, is it separate from the wash water? ☒ Yes ☐ No

### EARLY ENTRY

24. Have you ever entered a field or an area of a greenhouse soon after you saw a pesticide being sprayed or were you ever told to enter such an area soon after a pesticide was used? ☐ Yes ☒ No

A. If yes, were you informed about safety information pertaining to the pesticide, such as precautions, first aid, signs & symptoms of poisoning, necessary PPE?

Or,

If you are able to read and understand pesticide labels, given access to a legible copy of the pesticide label allowed to read it for yourself?

☐ Yes ☐ No

B. If yes, were you given special clothing to wear? ☐ Yes ☐ No

C. If you did enter such an area, why? \_\_\_\_\_

### HANDLER TASKS

25. In the past year, have you ever worked with pesticides to do any of the following?

✓ Y/N	mixing pesticides	adding to pesticide sprayers	applying pesticides to crops	repair or clean a pesticide sprayer	other activity (briefly describe)
Yes					
No	✓	✓	✓	✓	

If yes, were you trained in doing that work before you did it? ☐ Yes ☐ No

### EXPOSURE INCIDENTS

26. Do you know that pesticides can hurt you if they get on your skin or clothing? ☒ Yes ☐ No

27. Do you take pesticide containers home with you? ☐ Yes ☒ No

A. If yes, what do you use them for? \_\_\_\_\_

B. Are chemicals ever in the containers? ☐ Yes ☐ No

28. Have you ever felt as though pesticides/poisons have made you sick after working in the fields?  
☐ Yes ☒ No

If yes, what were your symptoms? \_\_\_\_\_

29. Were you ever directly sprayed/dusted by pesticides? ☐ Yes ☒ No

If yes, approximately when and how did this happen? \_\_\_\_\_

30. Did you ever miss work because of being ill from pesticides? ☐ Yes ☒ No

If yes, when and where did this occur? \_\_\_\_\_



31. Did you tell your employer or foreman about your pesticide exposure? ☐ Yes ☐ No

Did your employer or foreman take you to the hospital or clinic? ☐ Yes ☐ No

32. Do you know whether other workers got ill from or sprayed by pesticides? ☐ Yes ☒ No

### EMERGENCY ASSISTANCE

33. Do you know where to go on your farm/greenhouse to get information about the closest hospitals/clinics (facility's name, phone number, address)? ☐ Yes ☒ No

A. Where is the information? behind time clock.

B. Is this information always available? ☒ Yes ☐ No

34. Do you know who to contact on the farm/greenhouse if you have a medical emergency while working? ☒ Yes ☐ No

35. Do you know who would take you to the hospital/clinic if you were sick from pesticides? ☒ Yes ☐ No

36. How do you or the employer report pesticide-related illnesses? N/A

### RETALIATION

37. Have you ever been told to do something with pesticides on the farm (greenhouse, etc) that you thought you should not do? ☐ Yes ☒ No

38. Are you always able to do what is needed, like wear special clothing or know about pesticides used, without the employer stopping you from doing those things? ☐ Yes ☒ No

39. Have you ever complained about something relating to pesticides and your work at the farm/greenhouse and been threatened to be fired? ☐ Yes ☒ No

40. Record details about any incidents of retaliation:

### GENERAL

41. Where do you come from? (Country or State of origin) U.S. citizen

42. Is farm work your primary job? ☒ Yes ☐ No

43. Have you worked on farms before? ☐ Yes ☒ No

A. For how many years? 10

B. How many months out of the year do you work on farms? 12

C. How long have you worked at your present farm? 10

Worker Protection Standard  
Farm Worker Interview Questionnaire

44. In what other states have you worked on farms? none

45. Do you think your working conditions have improved or changed over the last five years?

☒ Yes ☐ No

Are conditions on some farms better than others? ☐ Yes ☐ No

n/a

46. What crops have you worked on in the last two years? bedding plants

Division of Solid & Hazardous Materials  
Article 33 and 6NYCRR 325

Assignment: Routine

Inspection Report: 072412GD901

Date of Inspection: July 24, 2012

Date of Report: July 25, 2012

Facility Inspected: H. A. Treichler & Sons, Inc.  
Person Inspected: Gary Treichler  
Inspection Site: 2687 Saunders Settlement Road  
Sanborn, New York 14132  
(716) 7319390

#### BACKGROUND

This was a routine inspection. The following inspections were performed: Agricultural Use Observation (AUO\*), Certified Applicator Records (CAR), Market Place Inspection (MPI), and Worker Protection Standard (WPS).

#### OPENING CONFERENCE

On July 24, 2012 at 10:30am I, Gregory R. Davis, Pesticide Control Specialist I, #GD9 and Michael Nierenberg, Pesticide Control Specialist II, #331, identified ourselves and presented our New York State credentials to Mr. Gary Treichler, Vice President of H. A. Treichler & Sons, Inc. I issued a Notice of Inspection to Mr. Treichler.

#### THE INSPECTION

##### **Pesticide Certification:**

This facility employs one Private Certified Applicator. Mr. Terry Treichler, President of the company, certification identification number P9 847765, certified in category 24 - Greenhouse and Nursery, with an expiration date of 2/21/2013.

##### **Use Observation:**

I conducted an Agricultural Use Observation (AUO\*) from the pesticide application records and by interviewing Mr. Treichler, who's son, Terry Treichler, conducted the application. Mr. Treichler applied "Subdue Maxx" fungicide, EPA registration number 100-796, a New York State registered, general use in product on June 28, 2012 to chrysanthemums in greenhouses #15, #18 and #19, to control pythium. It was applied at a rate of 1 ounce per 100 gallons of water, which is within the label rate of 0.5 to 1.0 ounce per 100 gallons of water. The label indicated no restricted entry interval, therefore the minimum of 4 hours was used. Mr. Treichler showed us the personal protection equipment he used in accordance with the label. All other label directions appear to have been followed.

Mr. Treichler showed us his backflow prevention device attached to the municipal water line that comes into the greenhouse facility.

After viewing the pesticide storage area I completed an URPCEP checklist with Mr. Treichler with no problems found.

**Market Place Inspection:**

Mr. Nierenberg and I proceeded to check all shelf stock while Mr. Treichler was with a salesman. All products were found to be registered as required by New York State.

**Worker Protection Standard:**

Mr. Nierenberg conducted the following WPS inspection. This site is approximately 225 acres, with the principal crops being bedding plants. There is one handler at this establishment. There is one permanent worker and ten seasonal workers employed by the facility.

The Central Location was located in the employee break room near the time clock. The required EPA safety poster was displayed, but did not have the proper emergency medical information on it. Pesticide application information was also not displayed. No pesticide warning signs are posted at the entrance of any greenhouse where a treatment is being made, because all applications are done after all employees are off duty and will not return until after the four hour REI has ended.

There have been no pesticide exposure incidents at the facility, but Mr. Treichler indicated that his son would be the person responsible for providing transportation to an emergency medical facility if an employee did become sick or injured by pesticides.

Custom pesticide applications are not made at this facility.

Mr. Treichler explained that although the facility has all the training tapes and booklets, they have not actually trained any workers for a few years. He indicated that they would start doing the training again, and we provided him with a training record document that he could use.

Specialist II Michael Nierenberg conducted a worker interview with one of the facility's employees. He indicated that he had not received safety training, but was aware of the information site and decontamination site in the break area.

**CLOSING DISCUSSIONS**

I reviewed all completed inspection paperwork with Mr. Treichler and provided him with copies of each document. I had him read and sign the Inspection Report Cover Sheet and provided him with a copy of said document. This concluded the inspection. We thanked him for his time and left the premises.



Gregory R. Davis  
Pesticide Control Specialist I  
Region 9

**ATTACHMENTS**

- Attachment A - Inspection Report Cover Sheet
- Attachment B - Notice of Inspection
- Attachment C - Certified Applicator/Business/Use Inspections
- Attachment D - Worker Protection Standard Inspection pages 1-4
- Attachment E - Market Place/Restricted Dealer Records Inspection form
- Attachment F - URPCEP form
- Attachment G - WPS Worker Interview Questionnaire



GR/File

**New York State Department of Environmental Conservation  
Division of Materials Management, Region 9  
Bureau of Pest Management**

270 Michigan Ave, Buffalo, New York 14203-2915

Phone: (716) 851-7220 Fax: 716-851-7226

Website: [www.dec.ny.gov](http://www.dec.ny.gov)



Joe Martens  
Commissioner

October 3, 2012

**CERTIFIED MAIL -- RETURN RECEIPT REQUESTED**

Mr. Terry Treichler  
H. A. Treichler & Sons Inc.  
2687 Saunders Settlement Road  
Sanborn, New York 14132

Dear Mr. Treichler:

**NOTICE OF VIOLATION OF  
THE ENVIRONMENTAL  
CONSERVATION LAW**

As you know, on July 24, 2012, Pesticide Control Specialists from this Department completed an inspection of your nursery business to determine your level of compliance with New York State pesticide laws and regulations. At that time, several violations of Articles 15, 33 and 71 of the ECL, and Parts 320-329 of Title 6 of the Official Compilation of Codes, Rules and Regulations of New York State (6 NYCRR) and the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA §12(a)(2)(g)] and the Code of Federal Regulations (40CFR 170") related to the Federal Worker Protection Standard (WPS) were documented. In addition, a previous inspection completed on August 16, 1999 by this Department documented violations of both Article 33 of the New York State Environmental Conservation Law and 40CFR 170 related to the Federal Worker Protection Standard. A Warning Letter was assessed at that time for these violations, taking into consideration that this was a first offense by your business.

The follow-up inspection of July 24, 2012 was completed to determine the nursery's level of compliance with the Laws of New York and the Federal Worker Protection Standard. During the most recent inspection, several violations and/or potential violations of the Code of Federal Regulations (CFR) and New York State regulations were identified as follows:

1. 40 CFR 170.135 requires employers of agricultural workers and handlers to display a pesticide safety poster in a location designated as the central posting area. This poster must also contain information on **emergency medical contacts**.

You did display the required safety poster at a central location accessible to workers, but the emergency medical information was not written on the poster as

Mr. Terry Treichler (NOV)  
October 3, 2012  
Page 2

required. A new poster was given to you during the inspection. The new poster needs to be made visible by moving it from behind the time clock and have emergency information added, so it is accessible to all workers.

2. 40 CFR 170.122 requires that specific information on pesticide applications, in the form of written application records, be available to workers and handlers at the central location. Specific information on all pesticide applications, including location of application, product name, EPA registration number, active ingredients, time and date of application, and restricted entry intervals (REI) for each pesticide applied within the past thirty (30) days, must be provided for both general and restricted use products. Further, NYS Article 33-1205.5 of the Environmental Conservation Law (ECL) and 6 NYCRR Part 325.25(d) requires that private applicator records contain the restricted pesticides purchased, target crop, method of application and date of application.

Information required by 40 CFR 170.122 was not compiled and available at the Central Location. It was determined that these records, once compiled, could be placed on your desk, available to employees, as long as the poster is placed nearby, i.e. on the office door, and the office is not locked during work hours. Records may also be posted on the wall next to the safety poster, if possible. In any event, these records must be accessible to workers at the farm/nursery at all times, and workers must know where to access this information.

3. 40 CFR 170.130 requires that all workers must receive pesticide safety training using United States Environmental Protection Agency approved training materials. This training should also be documented.

You were unable to show documentation that worker training took place, and in fact, admitted to failure to train workers since 1999. This training must be completed at least once every five years. You stated that you were still in possession of the approved EPA training tapes for both workers and handlers.

As a result, a "Notice of Violation" and "Order on Consent with assessed penalty" were issued to H.A. Treichler & Sons Inc. on August 16, 2012. This Order on Consent also included a requirement that H.A. Treichler & Sons Inc. complete the steps necessary to come into compliance with the regulatory requirements.

A followup inspection was completed on September 27, 2012. As a result, it was determined that you have come into compliance with the requirements, in that you have properly displayed a Worker Protection Safety Poster with emergency medical information completed at your central posting area, pesticide application records have been updated and made available to workers at the central posting area, and workers have received pesticide training and such training has been properly documented.

Mr. Terry Treichler (NOV)  
October 3, 2012  
Page 3

Initially the Order on Consent issued August 16, 2012 assessed a penalty of \$575.00. In order to address these violations without the necessity of a formal hearing, the Department is offering to settle these violations via the enclosed Order on Consent which lists the violations and a reduced total penalty amount of \$ 250.00. Signature of the "Consent by Corporation" and Acknowledgement for Corporation Respondent sections, and notarization and payment of the penalty amount, will indicate your concurrence with the conditions as set forth, and conclude this matter. Please return the executed Order to me together with payment of the penalty amount, payable to Commissioner of Environmental Conservation, to the New York State Department of Environmental Conservation, Bureau of Pesticides Management, 270 Michigan Ave., Buffalo, New York 14203 **by November 2, 2012**. After the Order is executed by our Regional Director, as representative of the Commissioner, I will return a fully executed copy to you for your records.

Lastly, the Order on Consent again contains a "Compliance Verification Affidavit", wherein you acknowledge that actions necessary to come into compliance with the Department's regulatory program have been completed. This completed Affidavit and Order on Consent signature page can be returned at the same time **but no later than November 2, 2012**.

Failure to respond to this notice will result in the Department initiating formal enforcement proceedings, and the withdrawal of this settlement offer.

Thank you for your cooperation during the inspection process and in promptly addressing these issues. Should you have any questions, or wish to discuss this matter further, please contact me at (716) 851-7220.

Sincerely,



Glenn Reinhardt  
Pesticide Control Specialist II

GR:dcg

Enclosures:

Order on Consent  
Compliance Verification Affidavit

cc: Mr. Mark Hans, Regional Materials Management Engineer  
Ms. Maureen Brady, Regional Attorney

STATE OF NEW YORK: DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of Violations of Articles 15 and 33 of  
the Environmental Conservation Law (ECL) and  
Title 6 of the Official Compilation of Codes, Rules, and  
Regulations of the State of New York (6NYCRR)  
Parts 320 - 329

ORDER ON CONSENT  
CASE NO. \_\_\_\_\_

- BY -

Mr. Terry Treichler  
H.A. Treichler & Sons Inc.  
2687 Saunders Settlement Road  
Sanborn, New York 14132

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1. The New York State Department of Environmental Conservation (Department) is responsible for administration and enforcement of laws and regulations pertaining to pesticides in the State of New York, including ECL Articles 15 and 33 and Title 6 NYCRR Parts 320 - 329.
2. In 1992, the United States Environmental Protection Agency promulgated the Worker Protection Standard (WPS) at 40CFR Part 170, which regulates certain activities at farms, forests, nurseries, and greenhouses where pesticides are used in the production of agricultural plants.
3. Pursuant to Article 33 of the ECL and the rules and regulations promulgated thereunder, Title 6 NYCRR Part 325.2(b) requires that pesticides are to be used only in accordance with label and labeling directions or as modified or expanded and approved by the Department.
4. Compliance with the WPS is part of the "Directions For Use" included in the labeling of certain registered pesticides used on said premises.
5. The violations recited herein are subject to the penalty provisions of ECL § 71-2907.
6. Respondent, Terry Treichler, is a certified pesticide applicator, identification number P9-847765, who operates a nursery located in the Town of Sanborn, County of Niagara, State of New York.



thousand dollars) for a subsequent offense, to be assessed by the Commissioner after a hearing or opportunity to be heard.

17. Respondent agrees to cease and desist from all future applications of any and all pesticides until such time as respondent is in compliance with the above provisions of the law as well as the requirements of Articles 15 and 33 of the Environmental Conservation Law.
18. To promote the best interest of the parties, the Respondent affirmatively waives the right to a hearing on this matter as provided by law and consents to the issuing and entering of this Order and agrees to be bound by the provisions, terms and conditions contained herein.

NOW, having considered this matter and being duly advised, IT IS ORDERED THAT:

I. Resolution of Enforcement Action. Upon completion of all obligations created in this Order, this Order settles only all claims for civil and administrative penalties concerning the violations described in this Order against Respondents and related permit requirements.

II. Civil Penalty. With respect to the violations identified in this Order, Respondent is hereby assessed a civil penalty in the amount of \$250.00 (two hundred fifty dollars) for the above violations of the ECL and WPS. The payable penalty amount is due by November 2, 2012. All payments shall be made by check or money order, payable to the Commissioner of Environmental Conservation at the New York State Department of Environmental Conservation, Bureau of Pesticide Management, 270 Michigan Avenue, Buffalo, New York 14203. Payment shall be made by the Respondent, delivered personally or by US mail to the address set forth in this paragraph as stipulated with the payment due immediately upon execution of this Order but no later than November 2, 2012.

III Compliance. That Respondents shall be immediately bound as here and after provided by this Order. Respondent must correct said violations and certify, via the attached "Compliance Verification Affidavit", that actions necessary to come into compliance with the Department's regulatory program have been completed. This completed "Compliance Verification Affidavit" must be returned when the violations have been corrected, but no later than November 2, 2012.

IV Access. For the purpose of monitoring or determining compliance with this Order, employees and agents of the Department shall be provided access to any facility, site or records owned, operated, controlled or maintained by Respondents, in order to inspect and/or perform such tests as the Department may deem appropriate, to copy such records, or to perform any other lawful duty or responsibility.

V. Reservation of Rights. Except as provided in this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the civil, administrative, or criminal rights of the Department or of the Commissioner of her designee (including, but not limited to, nor exemplified by, the rights to recover natural resources

XII Entire Order. The provisions of this Order constitute the complete and entire Order issued to the Respondents concerning resolution of the violations identified in this Order. No term, condition, understanding or agreement purporting to modify or vary any term hereof shall be binding unless made in writing and subscribed by the party to be bound. No informal oral or written advice, guidance, suggestion or comment by the Department regarding any report, proposal, plan, specification, schedule comment or statement made or submitted by Respondent shall be construed as relieving Respondent of its obligations to obtain such formal approvals as may be required by this Order.

XIII Effective Date. The effective date of this Order is the date that the Commissioner or his designee signs it. The Department will provide Respondents (or the Respondents counsel) with a fully executed copy of this Order as soon as practicable after the Commissioner or her designee signs it.

DATED: Buffalo, New York  
\_\_\_\_\_, 2012

Joseph Martens, Commissioner,  
New York State Department of  
Environmental Conservation

By: \_\_\_\_\_  
Abby M. Snyder  
Regional Director, Region 9

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
CONSENT BY CORPORATION

Respondent, Terry Treichler, hereby consents to the issuing and entering of the foregoing Order without further notice and waives the right to a hearing herein and agrees to be bound by the provisions, terms and conditions herein.

By Terry A. Treichler  
Terry A. Treichler  
Print Name  
President  
Title  
Date: OCT 12 2012

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
ACKNOWLEDGMENT FOR CORPORATION RESPONDENT

STATE OF NEW YORK  
COUNTY OF Niagara

On the 12 day of Oct in the year 2012, before me personally came Terry Treichler, to me known, who being by me duly sworn did dispose and say he resides at 2413 Saunders Schilment Rd that he is the President of said corporation, and that he was authorized by H.A. Treichler corporation to execute the foregoing instrument, and that he signed his name thereto.

Danelle Stankiewicz  
Notary Public

DANELLE STANKIEWICZ  
Notary Public, State of New York  
My Commission Expires Nov. 24, 2012

COMPLIANCE VERIFICATION AFFIDAVIT

STATE OF NEW YORK  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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In the Matter of:

Mr. Terry Treichler  
H.A. Treichler & Sons Inc.  
2687 Saunders Settlement Road  
Sanborn, New York 14132

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I, Terry Treichler, being duly sworn, did depose and say that I am the President  
of H.A. Treichler & Sons Inc., and that H.A. Treichler & Sons Inc. has corrected the violations and  
complied with the requirements of the Order on Consent issued by the New York State Department of  
Environmental Conservation dated October 1, 2012. I have checked all items I have completed to achieve  
compliance:

- ☒ I have corrected my daily application records for 2012, and made them available to workers as  
required.
- ☒ I have provided training to workers as required by the Federal Worker Protection and documented  
this training.
- ☒ I have posted the safety poster at the designated Central Posting area, and completed the  
Emergency Contact Information on the poster.

List any additional statements being made to the Department here: \_\_\_\_\_

---

Terry A. Treichler  
Signature of Officer or Representative  
President  
Title of Officer or Representative

Subscribed and sworn to before me  
On this 12 day of Oct, 2012

Danelle Stankiewicz  
Notary Public

DANELLE STANKIEWICZ  
Notary Public, State of New York  
My Commission Expires Nov. 24, 2012